

1 **SHB 2419 - H AMD Failed 2-16-02 0225**

2 By Representative Benson

3 Strike everything after the enacting clause and insert the  
4 following:

5  
6 NEW SECTION. **Sec. 1.** The legislature finds that consumers are  
7 vulnerable to price gouging or clearly excessive pricing during times  
8 of abnormal market conditions caused by significant disruptions,  
9 emergencies, or disasters. The legislature declares that excessive and  
10 unjustified increases in retail prices charged during abnormal market  
11 conditions as defined in section 2 of this act should be prohibited.

12 NEW SECTION. **Sec. 2.** The definitions in this section apply  
13 throughout sections 1 through 4 of this act unless the context clearly  
14 requires otherwise.

15 (1) "Abnormal market conditions" means those instances of  
16 significant disruption to the marketplace caused by terrorist acts,  
17 civil disorder, war, or military action; extreme weather conditions; or  
18 convulsion of nature, including earthquake, tornado, tsunami, volcanic  
19 activity, fire, flood, or storm; and any emergency or disaster as set  
20 forth in chapters 43.06 and 38.52 RCW.

21 (2) "Person" has the same meaning as provided under RCW 19.86.010.

22 (3) "Essential consumer good or service" means a retail good or  
23 service that is used, bought, or rendered primarily for personal,  
24 family, or household purposes, and is necessary for consumption or use  
25 during a period of abnormal market condition, including food items;  
26 emergency supplies; medical supplies; building materials; fuel;  
27 transportation services; storage services; and temporary housing.

28 (4) "Food item" means any article that is used or intended for use  
29 for food or drink by a person or animal.

30 (5) "Emergency supplies" includes but is not limited to water,  
31 flashlights, fire extinguishers, radios, batteries, candles, blankets,  
32 soaps, diapers, temporary shelters, tape, toiletries, and portable  
33 fossil-fueled electric generators.

1 (6) "Medical supplies" includes but is not limited to prescription  
2 and nonprescription medications, bandages, gauze, isopropyl alcohol,  
3 and antibacterial products.

4 (7) "Building materials" includes lumber, construction tools,  
5 nails, windows, and other products used to protect, repair, build, or  
6 rebuild property.

7 (8) "Fuel" includes oil or propane used for home heating, or any  
8 fuel used to power any motor vehicle, portable electric generator, or  
9 power tool.

10 (9) "Transportation services" includes any service that is  
11 performed by any person who contracts to move or transport persons or  
12 personal or business property, or rents equipment for such purposes.

13 (10) "Storage services" includes any service that is performed by  
14 any person who contracts to store personal or business property or  
15 rents equipment for such purposes.

16 (11) "Temporary housing" includes any rental housing or office  
17 space leased on a temporary or short-term basis to a person who has  
18 been displaced from his or her dwelling, housing, or office space  
19 because of a significant disruption, emergency, or disaster.

20 (12) "Emergency cleanup, repair, or reconstruction services" means  
21 services provided and equipment used to clear or remove debris or other  
22 material that poses a public safety or health hazard and to repair  
23 residential or commercial property of any type to a safe and habitable  
24 condition.

25 NEW SECTION. **Sec. 3.** (1) In addition to the powers in chapters  
26 43.06 and 38.52 RCW for the governor to make disaster or emergency  
27 proclamations, for purposes of triggering the provisions in sections 1  
28 through 4 of this act, the governor is also hereby empowered to make  
29 and to rescind a proclamation of an abnormal market condition as  
30 defined in section 2 of this act.

31 (2) Upon the proclamation by the governor under chapters 43.06 and  
32 38.52 RCW or sections 1 through 4 of this act of an abnormal market  
33 condition, and for a period of thirty days following the proclamation,  
34 or a lesser time period if the proclamation is rescinded, it is  
35 unlawful for any person to sell or offer to sell at retail any  
36 essential consumer good or service within the area designated in the  
37 proclamation at a clearly excessive increase in price above the price

1 charged by that person for such goods or services immediately prior to  
2 the proclamation as specified in section 4 of this act.

3 (3) Upon the proclamation by the governor under chapters 43.06 and  
4 38.52 RCW or sections 1 through 4 of this act of an abnormal market  
5 condition, and for a period of ninety days following the proclamation,  
6 or a lesser time period if the proclamation is rescinded, it is  
7 unlawful for any person to sell or offer to sell at retail any  
8 emergency cleanup, repair, or reconstruction service within the area  
9 designated in the proclamation at a clearly excessive increase in price  
10 above the price charged by that person for such goods or services  
11 immediately prior to the proclamation as defined in section 4 of this  
12 act.

13 (4) An increase in price is not unlawful if the higher price  
14 charged reflected reasonable expenses in addition to the prior price of  
15 the goods or services but such reasonable expenses are limited to those  
16 which are necessarily incurred in procuring or delivering such goods  
17 and services during the period of time set forth in subsections (2) and  
18 (3) of this section. A price increase in excess of fifteen percent not  
19 tied to the reasonable expenses necessarily incurred in procuring or  
20 delivering an essential consumer good or service during the period of  
21 time set forth in subsections (2) and (3) of this section is prima  
22 facie evidence of a clearly excessive price increase.

23 (5) Any person who sold or had offered to sell an essential  
24 consumer good or service, or emergency cleanup, repair, or  
25 reconstruction service at a temporarily discounted or reduced price  
26 immediately prior to the proclamation as set forth in this section may  
27 use the price at which the person normally or usually sold the good or  
28 service for purposes of determining whether a price increase violates  
29 sections 1 through 4 of this act.

30 (6) The governor may extend the time periods set forth in  
31 subsections (2) and (3) of this section for additional thirty-day  
32 periods by issuing a renewed proclamation, upon a finding that the  
33 abnormal market condition continues and that any such extension is  
34 deemed necessary to protect the health, safety, or welfare of the  
35 citizens of the state.

36 (7) The governor may rescind an emergency proclamation made in  
37 accordance with subsection (1) of this section upon a finding that no  
38 abnormal market conditions exist.

1 (8) Any individual who violates any provision of this section  
2 shall be guilty of a gross misdemeanor.

3 NEW SECTION. **Sec. 4.** (1) The provisions of sections 1 through 4  
4 of this act do not apply to persons whose activities or transactions as  
5 to prices for goods or services are subject to regulation by the  
6 Washington utilities and transportation commission or the federal  
7 energy regulatory commission.

8 (2) Persons who merely provide advertising and related services  
9 for persons engaged in making offers to sell goods or perform services  
10 shall not be deemed to be making any offer to sell any goods or perform  
11 any services for purposes of sections 1 through 4 of this act.

12 (3) In any action against a person under the provisions of  
13 sections 1 through 4 of this act, the defendant shall be deemed not to  
14 have violated sections 1 through 4 of this act if the defendant proves  
15 all of the following:

16 (a) The violation of the price limitation was unintentional;

17 (b) The defendant voluntarily rolled back prices to a level  
18 permitted under sections 1 through 4 of this act upon discovering that  
19 this section was or may have been violated; and

20 (c) The defendant has instituted a restitution program for all  
21 consumers who may have paid excessive prices.

22 (4) Subsequent remedial measures are not admissible as evidence of  
23 a violation of sections 1 through 4 of this act.

24 NEW SECTION. **Sec. 5.** This act shall be known as the "Preventing  
25 Price Gouging During Emergencies and Disasters Act."

NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act constitute  
a new chapter in Title 19 RCW.-

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Correct the title.

**EFFECT:** Creates a new chapter in Title 19 to make clearly  
excessive increases in retail prices charged during abnormal  
market conditions subject to criminal sanctions rather than civil  
remedies. Makes excessive increase in retail prices during

abnormal market conditions punishable as a gross misdemeanor.